



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Eric Doster, Esq.
DOSTER LAW OFFICES, PLLC
2145 Commons Parkway
Okemos, MI 48864

APR 27 2017

RE: MUR 7071
Mike Bishop for Congress
and Valerie Tillstrom in her official
capacity as treasurer

Dear Mr. Doster:

On May 24, 2016, the Federal Election Commission notified your clients, Mike Bishop for Congress and Valerie Tillstrom in her official capacity as treasurer (the "Committee") of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On April 19, 2017, based upon information contained in the complaint, as well as information supplied by your clients, the Commission decided to exercise its prosecutorial discretion and dismissed the allegations that the Committee violated 52 U.S.C. § 30120(a)(1) and 11 C.F.R. § 110.11(a)-(b) concerning the failure to insert a disclaimer on the Committee's contribution processing webpage. Accordingly, the Commission closed its file in this matter on April 19, 2017.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016. The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed.

If you have any questions, please contact Nicholas Bamman, the attorney assigned to this matter, at (202) 694-1628.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff S. Jordan", is written over the word "Sincerely,".

Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure:
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 RESPONDENTS: Mike Bishop for Congress and
6 Valerie Tillstrom as Treasurer

MUR 7071

7
8 **I. INTRODUCTION**

9
10 This matter was generated by a Complaint filed by Courtney White on May 19, 2016,
11 alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and
12 Commission regulations by Mike Bishop for Congress and Valerie Tillstrom in her official
13 capacity as treasurer (the "Committee"). It was scored as a low-rated matter under the
14 Enforcement Priority System, a system by which the Commission uses formal scoring criteria as
15 a basis to allocate its resources and decide which matters to pursue.

16 **II. FACTUAL AND LEGAL ANALYSIS**

17 **A. Factual Background**

18 The Complaint alleges that on March 29, 2016 the Committee sent an email to "voters"
19 soliciting donations to Mike Bishop's campaign.¹ There is no dispute that the email contained a
20 correct disclaimer.² The email, however, urged readers to follow a hyperlink to a rally.org
21 webpage ("the Rally Webpage") – a third-party website the Committee used to process
22 contributions.³ Although the Rally Webpage contained the statement "Created by Mike Bishop
23 for Congress" and was entitled "Mike Bishop for Congress," the Complaint alleges that the

¹ Compl. at 2, Ex. A.

² The email also contained a partially inaccurate "best efforts" notification. See 11 CFR § 104.7(a)-(b). It refers to individuals whose contributions "aggregate in excess of \$200 in a *calendar* year," whereas 11 C.F.R. § 104.7(b) states that for an authorized committee, such as the Bishop Committee, the time period is "an *election* cycle."

³ Compl., Ex. B.

1 Committee failed to use the specific words “paid for” by Mike Bishop for Congress on the Rally
2 Webpage.⁴

3 The Committee responds that a disclaimer was not required on the Rally Webpage. The
4 Committee asserts that the creation of the Rally Webpage was a free service, although rally.org
5 charged a 5% fee to process contributions.⁵ Additionally, pursuant to Rally’s terms of service,
6 the Committee did not own the Rally Webpage. Instead, rally.org granted the Committee a
7 license for the page that it could revoke at will.⁶ Notwithstanding these arguments, the
8 Committee inserted a “paid for” disclaimer at the bottom of the Rally Webpage shortly after
9 learning of the Complaint.⁷

10 **B. Legal Analysis**

11 All “public communications” made by a political committee must contain appropriate
12 disclaimers.⁸ A public communication includes “general public political advertising,” which
13 excludes “communications over the Internet, except for communications placed for a fee on
14 another person’s Web site.”⁹ Further, disclaimers are required for “all Internet websites of
15 political committees available to the general public.”¹⁰

⁴ Compl. at 2.

⁵ Resp. at 2; *see also* <https://rally.org/corp/online-fundraising> (last visited Feb. 7, 2017).

⁶ Resp. at 3; *see also* Rally User Agreement Terms of Services, Section 6 (last updated: April 12, 2013), <https://rally.org/corp/eula>.

⁷ Resp. at 4-5; *see also* <https://rally.org/covers/b9PEeejfoN5/contribute> (last visited Feb. 14, 2017).

⁸ 11 C.F.R. § 110.11(a)(1).

⁹ 11 C.F.R. § 100.26; *see also* Explanation and Justification for the Regulations on Internet Communications, 71 Fed. Reg. 18,589, 18,593-94 (Apr. 12, 2006).

¹⁰ 11 C.F.R. § 110.11(a)(1).

1 Regardless of whether the disclaimer was required on the Rally Webpage, the
2 information before the Commission indicates there was little chance that the public was misled
3 by the landing page. The email, which contained a proper disclaimer, directed potential
4 contributors to the Rally Webpage, and the Rally Webpage provided enough identifying
5 information to inform the potential contributor that the Committee authorized it.¹¹ Moreover,
6 shortly after learning of the Complaint, the Committee inserted a "paid for" disclaimer on the
7 bottom of the Rally Webpage.

8 In light of the *de minimis* nature of the alleged violation, the unlikelihood that the public
9 was misled by the Rally Webpage, and the Committee's remedial actions, the Commission
10 exercises its prosecutorial discretion to dismiss the allegations that Mike Bishop for Congress
11 and Valerie Tillstrom in her official capacity as treasurer failed to insert a disclaimer on the Rally
12 Webpage in violation of 52 U.S.C. § 30120(a)(1) and 11 C.F.R. § 110.11(a)(1), (b)(1).¹²

¹¹ See Factual and Legal Analysis at 5-6, MUR 7039 (Sanders 2016, *et al.*) (dismissing alleged disclaimer violation where there was information sufficient to demonstrate that Sanders's committee had authorized the ad).

¹² *Heckler v. Chaney*, 470 U.S. 821 (1985).